

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. WRU-2016-0007-0150
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**ORDER GRANTING WAIVER**

(Issued May 6, 2016)

On March 18, 2016, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) a request for waiver of 199 IAC 35.6(4)(a)(2), which requires an energy efficiency plan modification when the energy efficiency budget per customer class has changed or will change by a factor of at least 10 percent. IPL is requesting a waiver for the residential electric class where actual spending for 2015 was nearly 73 percent of the 2015 planned spending, specifically the Residential Prescriptive Rebates, Change-a-Light, Appliance Recycling, and Low-Income Weatherization programs. IPL states that while it underspent relative to budget, it expects to achieve or exceed the savings goal for the residential electric program.

In support of its waiver request, IPL states that it does not believe that the 2015 residential electric underspending, as compared to budget, should be considered a sustained deviation necessitating a modification. IPL states that it plans to increase participation for the residential electric programs that will increase spending for the program in 2016. Specifically, IPL states that it plans to launch a

Residential Behavior pilot program mid-2016 that will likely increase participation in the cross-promoted residential programs. In addition, IPL states that its Residential Prescriptive Rebate program will be strongly marketed to individual customers, which also should increase participation in the residential electric program.

On April 7, 2016, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a response to the waiver request. OCA states that it supports IPL's decision to file a waiver to address the spending variances that are above the thresholds established in 199 IAC 35.6(4) and are caused by circumstances that may not be permanent. However, OCA suggests that if IPL adopts assumptions for the Change-a-Light program that differ substantially from those used to set the approved goals, IPL may need to pursue a plan modification for the lighting program.

Rule 199 IAC 35.6(4)(a)(2) provides that a utility shall file an application to modify its energy efficiency plan if "[t]he budget per customer class or grouping has changed or will change by a factor of at least plus or minus ten percent." However, 199 IAC 1.3 provides that the Board may waive any of its rules if it finds:

- a. The application of the rule would pose an undue hardship on the requesting party;
- b. The waiver would not prejudice the substantial legal rights of any person;
- c. The provisions of the rule are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety and welfare will be afforded by a means other than that prescribed in the rule.

IPL is requesting a waiver based on 2015 actual spending for the 2015 residential electric programs. IPL's actual spending for the residential electric programs was approximately 73 percent of budget. IPL explained that the underspending for the residential electric program was related to lower than expected participation, which has a direct correlation to IPL's ability to spend the corresponding incentive budget.

It is difficult to determine whether the budget for the residential electric customer class needs to be modified based on IPL's reports. That being said, it is important for IPL, or any other utility requesting a similar waiver, to provide information that will allow the Board and others to determine whether the budget(s) should be modified. The Board expects that this type of information will be in the annual reports that are due on May 1, 2015.

IPL requested a waiver of 199 IAC 35.6(4)(a)(2), stating that the provision requires a plan modification in the event the expenditures for a customer class vary from the budgeted amount by more than 10 percent. However, the rule provides that the utility shall file an application to modify if the budget per customer class or grouping has changed or will change by a factor of at least plus or minus 10 percent. The rule is intended to require a formal filing of a plan modification when a utility intentionally seeks to alter its Board-approved plan, with particular attention to the ongoing or long-term budget in the plan. The long-term budget in a plan is one of the

basic inputs for determining the amount of the utility's cost recovery factor. A change to the budget equates to a change in rates and such alterations of a plan generally should not occur unless there is an opportunity for substantial scrutiny by the Board, OCA, and other parties to the proceeding. Actual spending should not be confused with the budget, because the two amounts can vary significantly from each other.

At the time the rules were adopted, the Board believed the plan modification rules were needed to serve two purposes: (1) allow a utility to propose major alterations to its plan (and budget) and review those major changes through a formal evidentiary process; and (2) provide the Board or the OCA with a method of compelling a utility to justify changes in spending to avoid large, repeated over or under collections of energy efficiency revenues.

The Board recognizes that a number of similar waivers of the Board's rules have previously been granted to IPL and others when over or underspending required the utility to seek waivers of 199 IAC 35.6(4). The Board understands that an investor-owned utility in a situation of overspending might seek assurances it is still within the rules, because the Board's approval of a utility's energy efficiency plan does not include a guarantee that recovery of overspending related to overachievement will be automatically approved.

IPL has provided sufficient information supporting its request for waiver and the Board finds that there is good cause for granting the waiver. The Board finds that filing a plan modification would pose an undue hardship on IPL given the amount of

time and effort that would be required to prepare and litigate a plan modification proceeding. Therefore, the first criterion of 199 IAC 1.3 has been met.

The Board finds that the second criterion of 199 IAC 1.3 has also been satisfied insofar as no person's legal rights will be substantially prejudiced by granting IPL's request for waiver as IPL's actual spending variances in 2015 are a direct result of customer participation in IPL's energy efficiency programs in 2015.

Board rule 199 IAC 35.6(4)(a)(2) is not specifically mandated by statute or other provision of law and therefore the third criterion of 199 IAC 1.3 has been satisfied.

Finally, the Board finds that substantially equal protection of public health, safety, and welfare are afforded by granting this waiver. Opportunity was given to file comments regarding this waiver request and no objections to the waiver were received. The fourth criterion of 199 IAC 1.3 has been met and therefore the Board will grant IPL's request for waiver.

Utilities are reminded that any future filings for waiver of 199 IAC 35.6(4), based on spending variations, must be accompanied by information that addresses whether the spending variances are expected to continue and whether the plan budget should be changed. The Board is also mindful that settlements entered into by various parties and approved by the Board may impact when a waiver is appropriate.

**IT IS THEREFORE ORDERED:**

The request for waiver filed by Interstate Power and Light Company on  
March 18, 2016, is granted.

**UTILITIES BOARD**

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano  
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 6<sup>th</sup> day of May 2016.